

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA

KENNETH WASHINGTON,
Plaintiff,
vs.
DEPARTMENT OF THE NAVY, ET
AL.,
Defendants.)
)
)
DOCKET NO. 7:19-CV-112-BO
)
)
)
)
)
)

TRANSCRIPT OF VIDEOCONFERENCE MOTION HEARING
BEFORE MAGISTRATE JUDGE ROBERT T. NUMBERS, II
WEDNESDAY, APRIL 21, 2021; 1:33 PM
FAYETTEVILLE, NORTH CAROLINA

FOR THE PLAINTIFF:

Ward and Smith, P.A.
By: Jordan M. Spanner, Esq.
751 Corporate Center Drive
Suite 300
Raleigh, NC 27607

Bell Legal Group
By: J. Edward Bell, III, Esq.
219 Ridge Street
Georgetown, SC 29440

FOR THE DEFENDANTS:

U.S. Department of Justice
By: J. Adam Bain, AUSA
P.O. Box 340
Ben Franklin Station
Washington, DC 20044

U.S. Department of Justice
By: Haroon Anwar, AUSA
LaCresha A. Johnson, AUSA
175 N Street, NE
Washington, DC 20002

Audio Operator: CLERK'S OFFICE PERSONNEL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

eScribers, LLC
7227 N. 16th Street
Suite 207
Phoenix, AZ 85020
973-406-2250
www.escribers.net

Proceedings recorded by electronic sound recording; transcript
produced by transcription service.

I N D E X

RULINGS:	PAGE	LINE
Motion for protective order is granted.	21	16
Deposition will not go forward.		
Parties are ordered to meet and confer within	21	22
the next two weeks.		
Discovery period is extended sixty days.	22	15

1 P R O C E E D I N G S

2 THE COURT: Good afternoon, everyone.

3 UNIDENTIFIED SPEAKER: Good afternoon, Your Honor.

4 THE COURT: We are here in Washington v. Department
5 of the Navy, 7:19-CV-112, for a hearing on an emergency motion
6 for a protective order. I'd like to ask counsel to identify
7 themselves, beginning with counsel for the plaintiff.

8 MR. BELL: Good afternoon, Your Honor. My name is
9 Edward Bell for the plaintiff.

10 MS. SPANNER: Good afternoon, Your Honor. This is
11 Jordan Spanner of Ward and Smith, here as local counsel for
12 the plaintiff.

13 MR. ANWAR: Good afternoon, Your Honor. Haroon Anwar
14 here with my colleagues (audio interference) for the United
15 States (audio interference) introduce themselves.

16 MR. BAIN: Good afternoon, Your Honor.

17 THE COURT: All right, I believe we have Mr. -- --
18 yeah.

19 So I've reviewed the filings by the parties. And I
20 want to start off with some questions for plaintiff's counsel.

21 As I understand it, you are seeking this deposition
22 because you haven't received all the documents you believe are
23 responsive to your discovery requests. And my initial
24 question is: why is this a 30(b)(6) deposition and not a
25 motion to compel?

1 I'm sorry, Mr. Bell, I can't hear -- or Mr. Bell, I
2 can't hear you.

3 MR. BELL: I'm sorry. That's a very good question,
4 Your Honor. Normally, we would file a motion for -- to
5 compel. In this instance, we have possibly thirty years of
6 (audio interference) at least tens of thousands if not
7 millions of documents.

8 So when the Government objected to our initial
9 request, which was basically turn over all your documents, we
10 said okay, let's find out what documents they have. We may
11 not need every database they have. So we sent out a 30(b)(6)
12 with a 30(b)(5) (audio interference).

13 We sent a 30(b)(6) without the (audio interference),
14 I'm sorry -- so that an individual could describe for us what
15 they have, what are the databases, and then at that time, we
16 would have the ability to go to the Court and say this is the
17 database connected -- is involved and (indiscernible) or this
18 is the database that tracks the amount of chemicals in the
19 water or whether there is (indiscernible) values in that
20 particular time period.

21 And so not having the knowledge of what's in the
22 databases, we don't really know how to file a motion to compel
23 without them asking, Mr. Bell, aren't you asking for the
24 world; and the answer is, the only way we can address the
25 nature and content of the documents is for the Government to

1 tell us, in a general sense, what do they have.

2 THE COURT: Well --

3 MR. BELL: So that's why we've done it this way.

4 THE COURT: Have you asked that through an
5 interrogatory?

6 MR. BELL: Well, we've asked that in our amend -- no,
7 sir, we haven't asked it that way.

8 THE COURT: Why not?

9 MR. BELL: That's a good question, Judge. I think
10 the 30(b)(6) is just as good, if not better, because then we
11 can actually ask somebody about the documents a little bit
12 more than a crafted answer by the party, about what they have.

13 THE COURT: Well, you've said in your papers that you
14 know of databases that they have not searched. So if you know
15 of those databases, what is the need for the 30(b)(6) and why
16 can't you just tell them what databases you want them to look
17 in?

18 MR. BELL: Judge, we are aware of the huge database
19 that was discovered by the ATSDR during their investigation.
20 Initially, they investigated and was allowed to have access
21 and then it was cut off by the Government. There was some
22 negotiations through Congress and different people, and they
23 eventually were allowed to access that database.

24 I have talked to one of the investigators, and he has
25 indicated that they did get a good number of documents, but

1 there were a lot more. And we don't know what's in the
2 database. We don't know whether it's everything. We don't
3 know whether they're categorized, how they're actually filed.
4 And in cases involving this number of documents, we think this
5 is a good way to get started.

6 THE COURT: Well, what is the name of that database?

7 MR. BELL: We've always called it the secret
8 database, Judge, because that's the way I've heard of it the
9 last ten, fifteen years.

10 THE COURT: Well, I mean, I -- that's not a very
11 helpful definition for the Government to try to find it.

12 MR. BELL: Well --

13 THE COURT: So what would you ask the Government to
14 search for?

15 MR. BELL: (Audio interference), and the Government
16 has opposed that. And they haven't named it either. All we
17 know is they have a database.

18 THE COURT: Well, so your request right now, under
19 30(b)(6), as it reads, asks them to search the -- for them to
20 prepare someone to testify databases maintained by the
21 entirety of the federal government over a period of possibly
22 seventy years, with no guidance. Why is that not facially
23 over-broad?

24 MR. BELL: Well, I don't think it's seventy years,
25 Judge. I think it's thirty years. I think that's

1 (indiscernible). I do think, and we've been told, that the
2 Government has compiled the documents that relate only to the
3 Camp Lejeune water issue, not Camp Lejeune marine combat
4 issues. We're looking for the contaminated water issues at
5 Camp Lejeune.

6 And it's my understanding that Camp Lejeune has
7 compiled a large number of documents that relate to the
8 studies, to the treatment, to the discovery, to the types of
9 chemicals, to the effect of the chemicals.

10 In other words, ATSDR was able to get access and have
11 enough access to where they could come up with government
12 papers and epidemiological studies that relate to certain
13 maladies or ill effects from the exposure to the chemicals.

14 We don't know whether we have gotten all of those
15 documents. We don't think ATSDR has (indiscernible) all of
16 them. We think the access to them -- we don't think that
17 they've obtained all of them. And if they did, the Government
18 should say so. They should say, look, ATSDR has gotten all of
19 them. We don't have another database. Or we do have a
20 database and it's described as this.

21 And it's not something that's very hard for them to
22 produce. They have individuals, Judge, that know what they
23 have by way of documents. Otherwise, they couldn't have
24 answered or objected to my request for production, early on.

25 Remember, Judge, we asked for a request for

1 production back in -- I have it in my pleadings. But I think
2 that (audio interference) if not better than an interrogatory.
3 And they objected, basically, to everything we asked for that
4 hadn't been previously produced in the ATSDR documents.

5 THE COURT: So why is the 30(b)(6) deposition not
6 just focused on ATSDR?

7 MR. BELL: Well, they think there are documents other
8 than what ATSDR got.

9 THE COURT: Right, but what you've told me is that
10 ATSDR did some investigation, and they were essentially
11 roadblocked at some point, or not given documents. So why not
12 being there, and then build out from there. Find out who
13 ATSDR says they -- what documents they didn't get or were
14 refused or things like that?

15 MR. BELL: With all due respect, Judge, I think the
16 simplest and easiest way is to have the government say what
17 they've got. I understand what you're saying. And that's a
18 strategic question. But isn't it easier to say to the
19 Government employee, please tell me what kind of database you
20 would have. The content is basically (audio interference)
21 what you have in that database. And what is it? Is the
22 database searchable?

23 It's not an unusual question. In fact, quite
24 frankly, it's one that's used quite widely to -- so that our
25 request is not overly broad, is not too intrusive, and that

1 doesn't -- I mean, counsel has claimed that they have (audio
2 interference) privileged documents. We aren't asking for
3 those. All we would ask for would be, of course, a privilege
4 log but --

5 THE COURT: If --

6 MR. BELL: -- it's a -- it's a very good tool, Judge,
7 for us to get at the answer question.

8 THE COURT: Yes. Well, they need to prepare someone,
9 though, based upon the topic you've provided. And it's very
10 broad. It covers the entire federal government. Your
11 pleadings indicate the water contamination began in the 1950s,
12 which was seventy years ago. The way it's written now is
13 exceedingly broad. And I don't -- I frankly don't know how
14 someone could, in good faith, prepare someone to testify on
15 all of these things, given the breadth. I mean, the
16 Government indicates that six or seven agencies might have
17 documents, and each one of those is going to be different --
18 but it's not even limited to that, according to your 30(b)(6).
19 It's limited to the entire federal government, and any
20 documents that have ever been created.

21 So I mean, that seems very, very broad, when you're
22 going back over seventy years and searching the entirety of
23 the federal government.

24 MR. BELL: I hear what you're saying. But if I were
25 to ask an interrogatory the same question, I have the same

1 problem. I have the same issue. (Indiscernible) supply
2 (indiscernible) what we've learned, was stopped somewhere
3 around 1985 or 1987. I don't have the exact date. And new
4 water was brought in, and clean water was brought in.

5 So the range which I don't think anyone would contest
6 here today, would be sometime in the mid fifties onward. It's
7 our understanding, based on the documents we have reviewed,
8 that discovery (indiscernible) was made in the early sixties.
9 We may be off a little bit. But that's what we understand.

10 And until 1985 or thereabouts, these chemicals were
11 allowed to be kept in the water and individuals were exposed
12 to these chemicals.

13 If, in fact, there's several agencies that have these
14 documents, that's (indiscernible) say these are the seven
15 agencies. You need to go see them. But at least give us some
16 answer as to what documents do you have and not allow the
17 Government to decide what is relevant and what is not.

18 THE COURT: Now, I know there's a website for this
19 litigation -- well, for the Camp Lejeune water contamination
20 matters, and there are, it appears, many documents on that
21 website. Is that -- you contend that's not a sufficient set
22 of documents; it's an incomplete set of documents?

23 MR. BELL: Judge, I don't think it's complete. I
24 don't think the Government would (indiscernible) themselves on
25 that website. This is a speculation on my part. But it's

1 pretty much -- pretty much guaranteed that those are not all
2 the documents.

3 Maybe the Government could tell us. Are all those --
4 are all of the documents on the website, are they a complete
5 set of documents? And if we knew that we would
6 (indiscernible), and we could stop this hearing.

7 THE COURT: Well --

8 MR. BELL: But I don't think it is.

9 THE COURT: Well, I mean, you could confirm that
10 through a request for admission, which is much less costly
11 than a Rule 30 -- and involved than a Rule 30(b)(6)
12 deposition. I --

13 MR. BELL: Judge, if I -- if I ask that, and I say
14 are all of them here, and they say no, and then I say well,
15 tell me which ones aren't there, and they (indiscernible). I
16 mean, Judge, I hear what you're saying, but you're -- this is
17 not something that is just that simple that we can go through
18 an alternative which (indiscernible), when the alternative, at
19 least in this litigation, we -- under the Rules, we should be
20 able to say tell me what you have in a general sense.

21 And I'm not asking the Department of Justice to tell
22 me what EPA has, but what you -- what the Department of Navy,
23 who is a defendant, has compiled.

24 And Judge, if they have a warehouse full of documents
25 and they say, look, we've got a warehouse, we don't have an

1 index or we have a warehouse, we have an index, we have a
2 database, in fact we have ten databases, that is very -- that
3 is the beginning of what -- of a system by which we could be
4 able to determine where is the knowledge, where is the
5 information.

6 And I think it's the best way for us to do it.

7 THE COURT: Well, you say it's limited to the
8 Department of the Navy, but it's not. This is United
9 States -- it's Washington v. United States. And so you've
10 asked for the entire United States Government to respond to
11 this Rule 30(b)(6).

12 But let me ask the United States, why -- effectively,
13 why can you not just tell the defendant -- I'm sorry, the
14 plaintiff, where the documents are and what the universe of
15 documents that relate to this matter is? This is an MDL.
16 This can't be the first time you all have fought through this
17 issue. And it appears work has been done in the past. So why
18 isn't this an easy answer that can be provided in writing as
19 to what the universe of documents is?

20 MR. ANWAR: Sure, Your Honor. And if the Court --
21 I'll be making our presentation, Haroon Anwar.

22 So to respond directly to the first point on
23 documents, Your Honor, plaintiff's response raised an issue of
24 documents suggesting our document production was somehow
25 inadequate at the time that they raised it in response to our

1 motion for a protective order.

2 And to be clear, we've produced extensive information
3 in this case. We've produced nearly 3,000 pages worth of
4 total documents. In April 2020 we produced a set of documents
5 (indiscernible) that was roughly 8,500 pages. And also in
6 that same production we included another set of documents from
7 (indiscernible) that was nearly 8,000 documents.

8 And then in response to the plaintiff's most recent
9 request for production, which they served in late October,
10 about a week before the expert disclosure deadline, we
11 produced over 10,000 documents from ATSDR.

12 This is the majority of information that was, in
13 fact, produced in the MDL, the Camp Lejeune MDL. We've had it
14 for some time. And this should also be familiar to them,
15 because (audio interference) in the MDL. So the suggestion
16 that we somehow failed to produce documents, this is the first
17 that we've heard of it.

18 We've also directed plaintiff to the extensive
19 information available on the (indiscernible) website and the
20 EPA's website, including the administrative record related to
21 water contamination at Camp Lejeune.

22 And to be clear, our responses in this document
23 production, to the most recent set of requests made by
24 plaintiff, this -- we produced those documents and the
25 responses in the December/January time frame -- December 2020

1 and January 2021.

2 In that time, we've never received a deficiency
3 letter. We've never received any (indiscernible) letter. No
4 request was made to be conferred to us. And if there was
5 really an issue with our document production, surely plaintiff
6 would have filed a motion to compel prior to this hearing in
7 the litigation.

8 Simply put, from our perspective, Your Honor, the
9 document issue is a distraction. And this is a distraction
10 from the fact that this 30(b)(6) deposition is inappropriate.

11 Plaintiff -- we have a -- as we refer to in our
12 papers, we request the 30(b)(6) deposition be quashed for a
13 variety of reasons, but particularly given the posture of the
14 case and the late date of the case, with less than one month
15 before the discovery cutoff.

16 And in particular, the deposition is futile, as the
17 plaintiff failed to meet its expert disclosure deadline. It
18 failed to support its findings with expert evidence. And the
19 law is clear, and plaintiff's conceded in a prior filing, that
20 without expert evidence on probation, he's unable to meet the
21 elements of this case and the case can't move forward. And --

22 THE COURT: Well, let me -- let me just stop you --
23 let me just stop you there. I mean, I understand your
24 argument on that, and I understand why you make that argument.

25 I take it the plaintiff's going to depose your

1 experts at some point. And while I don't know the facts of
2 this case, it's certainly possible that a -- the right direct
3 examination could potentially create material issues of fact
4 regarding what's going on in this case, or perhaps somehow
5 through that avenue, even if Judge Boyle opposed my earlier
6 order, they can still obtain evidence from your experts that
7 will require this case to go forward.

8 So I don't fully close the door on the plaintiff's
9 chances of prevailing here. I certainly understand your
10 argument, but I don't think that it's quite as completely
11 bleak as you paint the picture.

12 So I mean, generally -- and I appreciate the
13 documents that you have produced. But I guess the question is
14 not how many documents have you produced, but have you
15 produced all the documents that are responsive to the
16 defendant's (sic) requests that are in your possession,
17 custody, and control.

18 And so what is your position on that issue?

19 MR. ANWAR: We've -- we've certainly -- we've
20 certainly produced the majority of the documents, and the
21 documents that we believe are responsive to plaintiff's
22 request. The specific document requests that were made in the
23 case.

24 We also made an attempt to update those document
25 productions, as well. And frankly, after plaintiff failed to

1 disclose and expert witness in the case, it raised the
2 question about proportionality in terms of producing
3 extensive -- I guess, scouring every federal agency to
4 produce -- look for additional documents.

5 We produced extensive information already. Plaintiff
6 has failed to produce an expert witness in the case for his
7 claims.

8 So I think our position is we've produced the vast
9 majority of the documents that are out there. It is possible
10 that there could be other documents, since our last
11 production. We made the effort to move forward with searching
12 for those documents. But between the posture of the case and
13 frankly just the difficulty in tracking down, sort of, some of
14 those documents in this COVID environment, we can't say that
15 every single document out might have been produced, but we do
16 think the vast majority has been produced, responsive to the
17 plaintiff's requests, what they asked for. And -- yeah.

18 THE COURT: Well, you say the vast majority --

19 MR. ANWAR: Your Honor --

20 THE COURT: -- you say the vast majority. What do
21 you understand to be outstanding that is nonprivileged and
22 relevant?

23 MR. ANWAR: Your Honor, we're in the process of
24 working to confirm, and we have been, for -- since the
25 document requests were made, just to make sure there hasn't

1 been any additional documentation that came about since the
2 majority of the information we produced in the MDL was
3 produced and was produced in this case as well.

4 And so our agencies are working on that, as I sit
5 here today, telling what may or may not exist. But that is
6 something we certainly have been working on.

7 And plaintiff has, I think, what we would consider
8 certainly, the critical mass of everything -- just about
9 everything that was produced in the MDL, for sure.

10 MR. BELL: Your Honor, may I respond to that, if it
11 please the Court?

12 THE COURT: Yes.

13 MR. BELL: The question you asked of counsel is what
14 do you have, in other words, do you have any databases, do you
15 have anything, and counsel hasn't answered. And if they have
16 a database, just say look, we've got a database. It's
17 circular.

18 We're trying to figure out how we can -- you guys
19 know in litigation involving years and years and years, what
20 an engineer said on this date in a report -- a Government
21 report, may not look to you to be relevant, but it may very
22 well be relevant to us in proving the amount of
23 contamination -- all kinds of things could help the
24 plaintiff's case.

25 On the other hand, we've recognized, when we had our

1 meet-and-confer, that this is a limited cases for a certain
2 period of time. And we talked about that. And we
3 (indiscernible) filed six of our requests and narrowed it down
4 to just one.

5 But counsel must remember that we started this
6 process back in October of last year, trying to get these
7 documents. We were told these documents were produced. Yes,
8 we've been searching through them. And you can see on some of
9 the documents they, in essence, refer to other things that we
10 can't find.

11 And so yes, we think there are relevant documents out
12 there. And it would be -- Your Honor, obviously if it's so
13 burdensome they can't answer the questions, the lawyers have
14 some knowledge, right now, that a 30(b)(6) witness should be
15 able to answer some general questions.

16 Do you have databases set up by the Government, yes
17 or no? That's a simple question. Are these documents related
18 to Camp Lejeune water contamination? Yes. We are
19 (indiscernible) from EPA or whoever's involved, but we have a
20 database. We have three databases.

21 It's not a long, hard deposition. If they want it to
22 be done by Zoom, it can be done in an hour, hour-and-a-half.
23 It's not a lot of burden on anyone. It's just a simple please
24 explain where you got these documents, what database did you
25 use, how did you compile them?

1 Clearly this is not a single event. This is a long-
2 term event that they've got lots and lots of documents. So
3 it's, in my mind, the least intrusive way to get to the next
4 step.

5 MR. ANWAR: Your Honor, if I may respond?

6 Just to reiterate, the document production of the
7 Government request that Mr. Bell was referring to were made a
8 week before their expert disclosure deadline passed. And
9 certainly if plaintiff wanted to ask those questions to us,
10 they put both those questions to us. We've met and conferred
11 multiple times at this point. None of these issues were
12 raised at the meet-and-confer.

13 We've asked for an explanation as to why they were
14 seeking this particular 30(b)(6) notice. And we were told
15 that they removed five of the six prior overly broad topics,
16 despite the fact that this topic is overly broad as well, and
17 that's sufficient from their perspective.

18 We were certainly open to having that conversation.
19 And plaintiff has extensive information that we've produced.
20 There is nothing precluding plaintiff from looking through
21 that information and identifying what they feel like they need
22 additional information from during this period of time.

23 Instead, we're sitting here talking sort of
24 (indiscernible) documents, additional documents that may or
25 may not exist.

1 And again, I think understanding -- respecting sort
2 of what you said on this issue, Your Honor. But that's sort
3 of not (indiscernible) that plaintiff still hasn't -- failed
4 to produce an expert in the case. And from our perspective,
5 the amount of discovery that plaintiff is seeking a month
6 before the close of discovery, at this juncture of the case,
7 with no expert disclosure or claim, is not proportionate in
8 the likely event that it's far outweighed by the burden to the
9 United States of going through this process.

10 MR. BELL: Counsel -- Your Honor, I think it's a
11 little disingenuous to sit here and say we've waited till the
12 last thirty days.

13 When we started this process in October, the first
14 30(b)(6) was in February. So that's not fair.

15 THE COURT: All right. Well, here's what we're going
16 to do, counsel. I'm going to grant the motion for a
17 protective order and prohibit the deposition from going
18 forward based on the current notice of deposition.

19 I find it to be overbroad and not proportional to the
20 needs of the case, given the scope of the 30(b)(6) notice, as
21 currently worded.

22 However, the parties are ordered to meet and confer
23 within the next two weeks to discuss outstanding issues that
24 the plaintiff believes exist regarding the production of
25 documents, such as if there are documents that are referenced

1 that they're unable to find, and the parties have a meet and
2 confer to try to resolve those issues.

3 Additionally, the parties shall discuss whether other
4 databases exist that have not been searched. And the
5 Government should make a good-faith effort to find an answer
6 to that question.

7 The plaintiffs may certainly serve an interrogatory
8 on this particular topic. And if the Government were to
9 stonewall or otherwise not provide the -- make a good-faith
10 effort to provide responsive information, then a renewed
11 30(b)(6) deposition may be appropriate in that case. But at
12 this time, there are other methods of discovery, both formal
13 and informal, that can address these matters, in a way that is
14 much more speedy and inexpensive.

15 In order to allow this to take place, I'll be
16 extending the discovery period a total of sixty additional
17 days, to allow these meet-and-confers to occur and for
18 document production to take place and for further assessment
19 of what is necessary in terms of discovery in this case.

20 If there's a motion to compel that needs to be filed,
21 regarding the Government's failure to produce documents or any
22 party's failure to comply with their discovery obligations,
23 that should be done promptly, so that the briefing can be
24 completed and the Court can rule on it in a timely manner.

25 Any party shall bear their own costs.

1 All right.

2 MR. ANWAR: Thank you, Your Honor.

3 THE COURT: That'll be my order on that.

4 And if there is a need for the Court to get involved
5 or if it would be helpful for the Court to be involved in
6 further discussions, please let me know, and we can reconvene
7 to address any issues. My goal here is to make sure that the
8 discovery obligations are met in a way that is proportional to
9 the needs of the case and done in a timely manner.

10 So I'm --

11 MR. ANWAR: Your Honor --

12 THE COURT: Yes, sir?

13 MR. ANWAR: I'm sorry. If I may just raise one
14 additional issue with you? It hasn't reached a point of
15 motion practice yet, but on this topic of expert discovery,
16 plaintiff certainly has requested a deposition of our experts,
17 and we've been -- we've provided dates for those experts in
18 May.

19 We've asked for confirmation of that from plaintiff's
20 counsel. Plaintiff (indiscernible) sort of, the time for the
21 expert's deposition as required under the rules. And we've
22 heard nothing. We were hoping we could get confirmation or
23 clarity on that either from Mr. Bell or guidance from Your
24 Honor, because we don't want to (indiscernible) fighting over
25 those depositions.

1 THE COURT: Mr. Bell, what do you have to say about
2 that?

3 MR. BELL: Your Honor, we (indiscernible) respond to
4 the rule, and we take their deposition, their expert, we'll
5 have a (indiscernible).

6 THE COURT: Good. I'm glad we could get that
7 resolved, as well.

8 MR. ANWAR: Thank you, Your Honor.

9 THE COURT: All right, counsel. I'll enter a brief
10 written order memorializing today's hearing and my ruling and
11 then things will go forward from there.

12 As I mentioned, if I can be of further assistance,
13 just let my case manager know, and we'll reconvene. Until
14 then, we'll be in recess. Thank you, counsel.

15 IN UNISON: Thank you, Your Honor.

16 (Court is adjourned)

17 * * * * *

18

19

20

21

22

23

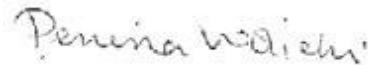
24

25

1 CERTIFICATE OF TRANSCRIBER

2
3 I, Penina Wolicki, court-approved transcriber, in and
4 for the United States District Court for the Eastern District
5 of North Carolina, do hereby certify that pursuant to Section
6 753, Title 28, United States Code, that the foregoing is a
7 true and correct transcript from the official electronic sound
8 recording of the proceedings held in the above-entitled matter
9 and that the transcript page format is in conformance with the
10 regulations of the Judicial Conference of the United States.

11
12 Dated this 9th day of May, 2021.

13 

14 /s/

15 _____
16 PENINA WOLICKI, CET-569

17 COURT-APPROVED TRANSCRIBER
18
19
20
21
22
23
24
25

A	14:4 argument (3) 15:24,24;16:10 around (1) 11:3 assessment (1) 22:18 assistance (1) 24:12 ATSDR (10) 6:19;8:10,15,18; 9:4,6,8,10,13,14:11 attempt (1) 16:24 audio (10) 4:14,15;5:6,12,13; 7:15;9:2,20;10:1; 14:15 available (1) 14:19 avenue (1) 16:5 aware (1) 6:18	10:15 brief (1) 24:9 briefing (1) 22:23 broad (6) 9:25;10:10,13,21; 20:15,16 brought (2) 11:4,4 build (1) 9:12 burden (2) 19:23;21:8 burdensome (1) 19:13	11:4 clear (3) 14:2,22;15:19 Clearly (1) 20:1 close (2) 16:8;21:6 colleagues (1) 4:14 combat (1) 8:3 compel (5) 4:25;5:5,22;15:6; 22:20 compile (1) 19:25 compiled (3) 8:2,7;12:23 complete (2) 11:23;12:4 completed (1) 22:24 completely (1) 16:10 comply (1) 22:22 conceded (1) 15:19 confer (2) 21:22;22:2 conferred (2) 15:4;20:10 confirm (2) 12:9;17:24 confirmation (2) 23:19,22 Congress (1) 6:22 connected (1) 5:17 consider (1) 18:7 contaminated (1) 8:4 contamination (5) 10:11;11:19; 14:21;18:23;19:18 contend (1) 11:21 content (2) 5:25;9:20 contest (1) 11:5 control (1) 16:17 conversation (1) 20:18 costly (1) 12:10 costs (1) 22:25 counsel (13) 4:6,7,11,20;10:1;	18:13,15;19:5;21:10, 16;23;20;24:9,14 course (1) 10:3 COURT (36) 4:2,4,17;5:16;6:2, 4,8,13;7:6,10,13,18; 9:5,9;10:5,8;11:18; 12:7,9;13:7,20; 15:22;17:18,20; 18:11,12;21:15; 22:24;23:3,4,5,12; 24:1,6,9,16 covers (1) 10:10 COVID (1) 17:14 crafted (1) 6:12 create (1) 16:3 created (1) 10:20 critical (1) 18:8 current (1) 21:18 currently (1) 21:21 custody (1) 16:17 cut (1) 6:21 cutoff (1) 15:15
	B	C		
				D

defendant's (1) 16:16	23;9:4,7,11,13;10:2,17,20;11:7,14,16,20,22,22;12:2,4,5,24;13:14,15,19,23,24;14:4,4,6,7,11,16,24;16:13,14,15,20,21;17:4,9,10,12,14;19:7,7,9,11,17,24;20:2,24,24;21:25,25;22:21	17:14 EPA (2) 12:22;19:19 EPA's (1) 14:20 epidemiological (1) 8:12 essence (1) 19:9 essentially (1) 9:10 even (2) 10:18;16:5 event (3) 20:1,2;21:8 eventually (1) 6:23 everyone (1) 4:2 evidence (3) 15:18,20;16:6 exact (1) 11:3 examination (1) 16:3 exceedingly (1) 10:13 exist (4) 18:5;20:25;21:24;22:4 expert (11) 14:10;15:17,18,20;17:1,6;20:8;21:4,7;23:15;24:4 experts (4) 16:1,6;23:16,17 expert's (1) 23:21 explain (1) 19:24 explanation (1) 20:13 exposed (1) 11:11 exposure (1) 8:13 extending (1) 22:16 extensive (5) 14:2,18;17:3,5;20:19	14:16;15:17,18;16:25;17:6;21:3 failure (2) 22:21,22 fair (1) 21:14 faith (1) 10:14 familiar (1) 14:14 far (1) 21:8 February (1) 21:14 federal (5) 7:21;10:10,19,23;17:3 feel (1) 20:21 fifteen (1) 7:9 fifties (1) 11:6 fighting (1) 23:24 figure (1) 18:18 file (2) 5:4,22 filed (4) 7:3;15:6;19:3;22:20 filing (1) 15:19 filings (1) 4:19 find (7) 5:10;7:11;9:12;19:10;21:19;22:1,5 findings (1) 15:18 first (4) 13:16,22;14:16;21:13 five (1) 20:15 focused (1) 9:6 formal (1) 22:12 forward (5) 15:21;16:7;17:11;21:18;24:11 fought (1) 13:16 frame (1) 14:25 frankly (4) 9:24;10:13;16:25;17:13 full (1) 12:24 fully (1)	16:8 further (3) 22:18;23:6;24:12 futile (1) 15:16
			G	
				general (3) 6:1;12:20;19:15 generally (1) 16:12 given (4) 9:11;10:15;15:13;21:20 glad (1) 24:6 goal (1) 23:7 Good (14) 4:2,3,8,10,13,16;5:3;6:9,10,25;7:5;10:6,14;24:6 good-faith (2) 22:5,9 Government (25) 5:8,25;6:21;7:11,13,15,21;8:2,11,17;9:16,19;10:10,16,19,23;11:17,24;12:3;13:10;18:20;19:16;20:7;22:5,8 Government's (1) 22:21 grant (1) 21:16 guaranteed (1) 12:1 guess (2) 16:13;17:3 guidance (2) 7:22;23:23 guys (1) 18:18
			H	
				hand (1) 18:25 hard (2) 8:21;19:21 Haroon (2) 4:13;13:21 hear (4) 5:1,2;10:24;12:16 heard (3) 7:8;14:17;23:22 hearing (4) 4:5;12:6;15:6;24:10 help (1) 18:23 helpful (2)

7:11;23:5 here's (1) 21:15 Honor (22) 4:3,8,10,13,16;5:4; 13:20,23;15:8;17:19, 23;18:10;19:12; 20:5;21:2,10;23:2, 11,24;24:3,8,15 hoping (1) 23:22 hour (1) 19:22 hour-and-a-half (1) 19:22 huge (1) 6:18	4:23;5:8 Initially (1) 6:20 instance (1) 5:5 Instead (1) 20:23 interference (10) 4:14,15;5:6,12,13; 7:15;9:2,20;10:2; 14:15 interrogatory (4) 6:5;9:2;10:25;22:7 introduce (1) 4:15 intrusive (2) 9:25;20:3 investigated (1) 6:20 investigation (2) 6:19;9:10 investigators (1) 6:24 involved (5) 5:17;12:11;19:19; 23:4,5 involving (2) 7:4;18:19 issue (9) 8:3;11:1;13:17,23; 15:5,9;16:18;21:2; 23:14 issues (7) 8:4,4;16:3;20:11; 21:23;22:2;23:7	5:21;13:4;19:14 L large (1) 8:7 last (4) 7:9;17:10;19:6; 21:12 late (2) 14:9;15:14 law (1) 15:19 lawyers (1) 19:13 learned (1) 11:2 least (4) 5:6;11:15;12:19; 20:3 Lejeune (8) 8:3,3,5,6;11:19; 14:13,21;19:18 less (2) 12:10;15:14 letter (2) 15:3,3 likely (1) 21:8 limited (4) 10:18,19;13:7; 19:1 litigation (4) 11:19;12:19;15:7; 18:19 little (3) 6:11;11:9;21:11 local (1) 4:11 log (1) 10:4 long (1) 19:21 long- (1) 20:1 look (6) 6:16;8:18;12:25; 17:4;18:16,21 looking (2) 8:4;20:20 lot (2) 7:1;19:23 lots (2) 20:2,2	13:21 maladies (1) 8:13 manager (1) 24:13 manner (2) 22:24;23:9 many (2) 11:20;16:14 marine (1) 8:3 mass (1) 18:8 material (1) 16:3 matter (1) 13:15 matters (2) 11:20;22:13 may (14) 5:10;11:9;18:5,5, 10,21,21;20:5,24,25; 22:7,11;23:13,18 Maybe (1) 12:3 MDL (6) 13:15;14:13,13, 15:18;2,9 mean (8) 7:10;10:1,15,21; 12:9,16;15:23;16:12 meet (4) 15:17,20;21:22; 22:1 meet-and-confer (2) 19:1;20:12 meet-and-confers (1) 22:17 memorializing (1) 24:10 mentioned (1) 24:12 met (2) 20:10;23:8 methods (1) 22:12 mid (1) 11:6 might (2) 10:16;17:15 millions (1) 5:7 mind (1) 20:3 month (2) 15:14;21:5 more (3) 6:12;7:1;22:14 most (2) 14:8,23 motion (9) 4:5,25;5:4,22; 14:1;15:6;21:16;	22:20;23:15 move (2) 15:21;17:11 much (4) 12:1,1,10;22:14 multiple (1) 20:11 must (1) 19:5 N name (2) 4:8;7:6 named (1) 7:16 narrowed (1) 19:3 nature (1) 5:25 Navy (3) 4:5;12:22;13:8 nearly (2) 14:3,7 necessary (1) 22:19 need (6) 5:11;6:15;10:8; 11:15;20:21;23:4 needs (3) 21:20;22:20;23:9 negotiations (1) 6:22 new (1) 11:3 next (2) 20:3;21:23 None (1) 20:11 nonprivileged (1) 17:21 Normally (1) 5:4 notice (3) 20:14;21:18,20 number (3) 6:25;7:4;8:7 O objected (3) 5:8;8:24;9:3 obligations (2) 22:22;23:8 obtain (1) 16:6 obtained (1) 8:17 obviously (1) 19:12 occur (1) 22:17 October (3)
I identify (1) 4:6 identifying (1) 20:21 ill (1) 8:13 inadequate (1) 13:25 inappropriate (1) 15:10 included (1) 14:6 including (1) 14:20 incomplete (1) 11:22 index (2) 13:1,1 indicate (1) 10:11 indicated (1) 6:25 indicates (1) 10:16 indiscernible (24) 5:17,19;8:1,15; 11:1,2,8,14,24;12:6, 15,18;14:5,7,19; 15:3;19:3,19;20:24; 21:3;23:20,24;24:3,5 individual (1) 5:14 individuals (2) 8:22;11:11 inexpensive (1) 22:14 informal (1) 22:13 information (10) 13:5;14:2,12,19; 17:5;18:2;20:19,21, 22;22:10 initial (2)	J January (1) 15:1 Jordan (1) 4:11 Judge (13) 6:9,18;7:8,25; 8:22,25;9:15;10:6; 11:23;12:13,16,24; 16:5 juncture (1) 21:6 Justice (1) 12:21 K kept (1) 11:11 kind (1) 9:19 kinds (1) 18:23 knew (1) 12:5 knowledge (3)	M maintained (1) 7:20 majority (7) 14:12;16:20;17:9, 16,18,20;18:2 making (1)	maladies (1) 8:13 manager (1) 24:13 manner (2) 22:24;23:9 many (2) 11:20;16:14 marine (1) 8:3 mass (1) 18:8 material (1) 16:3 matter (1) 13:15 matters (2) 11:20;22:13 may (14) 5:10;11:9;18:5,5, 10,21,21;20:5,24,25; 22:7,11;23:13,18 Maybe (1) 12:3 MDL (6) 13:15;14:13,13, 15:18;2,9 mean (8) 7:10;10:1,15,21; 12:9,16;15:23;16:12 meet (4) 15:17,20;21:22; 22:1 meet-and-confer (2) 19:1;20:12 meet-and-confers (1) 22:17 memorializing (1) 24:10 mentioned (1) 24:12 met (2) 20:10;23:8 methods (1) 22:12 mid (1) 11:6 might (2) 10:16;17:15 millions (1) 5:7 mind (1) 20:3 month (2) 15:14;21:5 more (3) 6:12;7:1;22:14 most (2) 14:8,23 motion (9) 4:5,25;5:4,22; 14:1;15:6;21:16;	name (2) 4:8;7:6 named (1) 7:16 narrowed (1) 19:3 nature (1) 5:25 Navy (3) 4:5;12:22;13:8 nearly (2) 14:3,7 necessary (1) 22:19 need (6) 5:11;6:15;10:8; 11:15;20:21;23:4 needs (3) 21:20;22:20;23:9 negotiations (1) 6:22 new (1) 11:3 next (2) 20:3;21:23 None (1) 20:11 nonprivileged (1) 17:21 Normally (1) 5:4 notice (3) 20:14;21:18,20 number (3) 6:25;7:4;8:7 O objected (3) 5:8;8:24;9:3 obligations (2) 22:22;23:8 obtain (1) 16:6 obtained (1) 8:17 obviously (1) 19:12 occur (1) 22:17 October (3)

14:9;19:6;21:13 off (3) 4:20;6:21;11:9 one (6) 6:24;9:24;10:17; 15:14;19:4;23:13 ones (1) 12:15 only (2) 5:24;8:2 onward (1) 11:6 open (1) 20:18 opposed (2) 7:16;16:5 order (7) 4:6;14:1;16:6; 21:17;22:15;23:3; 24:10 ordered (1) 21:22 Otherwise (2) 8:23;22:9 out (8) 5:10;11:9;12:12; 17:9;15;18:18;19:11 outstanding (2) 17:21;21:23 outweighed (1) 21:8 over (5) 5:9;7:21;10:22; 14:11;23:24 overbroad (1) 21:19 over-broad (1) 7:23 overly (3) 9:25;20:15,16 own (1) 22:25	22:22 passed (1) 20:8 past (1) 13:17 people (1) 6:22 perhaps (1) 16:4 period (5) 5:20;7:21;19:2; 20:22;22:16 perspective (3) 15:8;20:17;21:4 picture (1) 16:11 place (2) 22:15,18 plaintiff (20) 4:7,9,12;13:14; 14:18,24;15:5,11,17; 16:25;17:5;18:7; 20:9,19,20;21:3,5, 24:23;16,20 plaintiffs (1) 22:7 plaintiff's (10) 4:20;13:23;14:8; 15:19,25;16:8,21; 17:17;18:24;23:19 pleadings (2) 9:1;10:11 please (4) 9:19;18:11;19:23; 23:6 point (5) 9:11;13:22;16:1; 20:11;23:14 position (2) 16:18;17:8 possession (1) 16:16 possible (2) 16:2;17:9 possibly (2) 5:5;7:21 posture (2) 15:13;17:12 potentially (1) 16:3 practice (1) 23:15 precluding (1) 20:20 prepare (3) 7:20;10:8,14 presentation (1) 13:21 pretty (2) 12:1,1 prevailing (1) 16:9 previously (1)	9:4 prior (3) 15:6,19;20:15 privilege (1) 10:3 privileged (1) 10:2 probation (1) 15:20 problem (1) 11:1 process (4) 17:23;19:6;21:9, 13 produce (6) 8:22;14:16;17:4,6; 21:4;22:21 produced (21) 9:4;14:2,3,4,11,13, 24;16:13,14,15,20; 17:5,8,15,16;18:2,3, 3,9;19:7;20:19 producing (1) 17:2 production (11) 8:24;9:1;13:24; 14:6,9,23;15:5; 17:11;20:6;21:24; 22:18 productions (1) 16:25 prohibit (1) 21:17 promptly (1) 22:23 proportional (2) 21:19;23:8 proportionality (1) 17:2 proportionate (1) 21:7 protective (3) 4:6;14:1;21:17 provide (2) 22:9,10 provided (3) 10:9;13:18;23:17 proving (1) 18:22 put (2) 15:8;20:10	raised (4) 13:23,25;17:1; 20:12 range (1) 11:5 reached (1) 23:14 reads (1) 7:19 really (2) 5:22;15:5 reasons (1) 15:13 received (3) 4:22;15:2,3 recent (2) 14:8,23 recess (1) 24:14 recognized (1) 18:25 reconvene (2) 23:6;24:13 record (1) 14:20 refer (2) 15:11;19:9 referenced (1) 21:25 referring (1) 20:7 refused (1) 9:14 regarding (3) 16:4;21:24;22:21 reiterate (1) 20:6 relate (4) 8:2,7,12;13:15 related (2) 14:20;19:17 relevant (5) 11:17;17:22; 18:21,22;19:11 Remember (2) 8:25;19:5 removed (1) 20:15 renewed (1) 22:10 report (2) 18:20,21 request (11) 5:9;7:18;8:24,25; 9:25;12:10;14:9; 15:4,12;16:22;20:7 requested (1) 23:16 requests (7) 4:23;14:23;16:16, 22;17:17,25;19:3 require (1) 16:7	required (1) 23:21 resolve (1) 22:2 resolved (1) 24:7 respect (1) 9:15 respecting (1) 21:1 respond (5) 13:10,22;18:10; 20:5;24:3 response (3) 13:23,25;14:8 responses (2) 14:22,25 responsive (5) 4:23;16:15,21; 17:16;22:10 reviewed (2) 4:19;11:7 right (8) 4:17;7:18;9:9; 16:2;19:14;21:15; 23:1;24:9 roadblocked (1) 9:11 roughly (1) 14:5 Rule (5) 12:11,11;13:11; 22:24;24:4 Rules (2) 12:19;23:21 ruling (1) 24:10
P				S
pages (2) 14:3,5 paint (1) 16:11 papers (3) 6:13;8:12;15:12 part (1) 11:25 particular (4) 5:20;15:16;20:14; 22:8 particularly (1) 15:13 parties (4) 4:19;21:22;22:1,3 party (2) 6:12;22:25 party's (1)				same (4) 10:25,25;11:1; 14:6 saying (3) 9:17;10:24;12:16 scope (1) 21:20 scouring (1) 17:3 search (2) 7:14,19 searchable (1) 9:22 searched (2) 6:14;22:4 searching (3) 10:22;17:11;19:8 secret (1) 7:7 seeking (3) 4:21;20:14;21:5 seems (1) 10:21
		Q		
		quashed (1) 15:12 quite (3) 9:23,24;16:10		
		R		
		raise (1) 23:13		

sense (2) 6:1;12:20 sent (2) 5:11,13 serve (1) 22:7 served (1) 14:9 set (7) 11:21,22;12:5; 14:4,6,23;19:16 seven (2) 10:16;11:14 seventy (4) 7:22,24;10:12,22 several (1) 11:13 shall (2) 22:3,25 sic (1) 16:16 simple (3) 12:17;19:17,23 simplest (1) 9:16 Simply (1) 15:8 single (2) 17:15;20:1 sit (2) 18:4;21:11 sitting (1) 20:23 six (3) 10:16;19:3;20:15 sixties (1) 11:8 sixty (1) 22:16 Smith (1) 4:11 somebody (1) 6:11 somehow (3) 13:24;14:16;16:4 someone (4) 7:20;10:8,14,14 sometime (1) 11:6 somewhere (1) 11:2 sorry (5) 5:1,3,14;13:13; 23:13 sort (5) 17:13;20:23;21:1, 2;23:20 SPANNER (2) 4:10,11 SPEAKER (1) 4:3 specific (1) 16:22	speculation (1) 11:25 speedy (1) 22:14 start (1) 4:20 started (3) 7:5;19:5;21:13 States (6) 4:15;13:9,9,10,12; 21:9 step (1) 20:4 still (2) 16:6;21:3 stonewall (1) 22:9 stop (3) 12:6;15:22,23 stopped (1) 11:2 strategic (1) 9:18 studies (2) 8:8,12 sufficient (2) 11:21;20:17 suggesting (1) 13:24 suggestion (1) 14:15 supply (1) 11:1 support (1) 15:18 Sure (4) 13:20;17:25;18:9; 23:7 surely (1) 15:5 system (1) 13:3	thereabouts (1) 11:10 thirty (3) 5:5;7:25;21:12 though (1) 10:9 thousands (1) 5:6 three (1) 19:20 till (1) 21:11 timely (2) 22:24;23:9 times (1) 20:11 today (2) 11:6;18:5 today's (1) 24:10 told (4) 8:1;9:9;19:7;20:14 tool (1) 10:6 topic (4) 10:9;20:16;22:8; 23:15 topics (1) 20:15 total (2) 14:4;22:16 tracking (1) 17:13 tracks (1) 5:18 treatment (1) 8:8 try (2) 7:11;22:2 trying (2) 18:18;19:6 turn (1) 5:9 two (1) 21:23 types (1) 8:8	unusual (1) 9:23 up (2) 8:11;19:16 update (1) 16:24 upon (1) 10:9 use (1) 19:25 used (1) 9:24	8:10;18:14 work (1) 13:17 working (3) 17:24;18:4,6 world (1) 5:24 worth (1) 14:3 writing (1) 13:18 written (2) 10:12;24:10
			V	Y
			values (1) 5:19 variety (1) 15:13 vast (4) 17:8,16,18,20	year (1) 19:6 years (10) 5:5;7:9,22,24,25; 10:12,22;18:19,19, 19
			W	Z
			waited (1) 21:11 Ward (1) 4:11 warehouse (3) 12:24,25;13:1 Washington (2) 4:4;13:9 water (10) 5:19;8:3,4;10:11; 11:4,4,11,19;14:21; 19:18 way (12) 5:24;6:3,7;7:5,8; 8:23;9:16;10:12; 13:6;20:3;22:13; 23:8 website (6) 11:18,21,25;12:4; 14:19,20 week (2) 14:10;20:8 weeks (1) 21:23 what's (3) 5:21;7:1;16:4 whoever's (1) 19:19 widely (1) 9:24 within (1) 21:23 without (3) 5:13,23;15:20 witness (3) 17:1,6;19:14 worded (1) 21:21 words (2)	Zoom (1) 19:22
				1
				10,000 (1) 14:11 1950s (1) 10:11 1985 (2) 11:3,10 1987 (1) 11:3
				2
				2020 (2) 14:4,25 2021 (1) 15:1
				3
				3,000 (1) 14:3 30 (1) 12:11 30b5 (1) 5:12 30b6 (17) 4:24;5:11,13;6:10, 15;7:19;9:5;10:18; 12:11;13:11;15:10, 12;19:14;20:14; 21:14,20;22:11
				7

7:19-CV-112 (1) 4:5				
8				
8,000 (1) 14:7 8,500 (1) 14:5				